

Remarks

The Examiner has required restriction in the above-referenced application to one of the Groups I or II.

Applicants hereby elect the invention of Group II, Claims 25-29 drawn to an oral dosage form. This election of Group II is made without traverse. By the above amendments, applicants have canceled claims 1-24 drawn to the non-elected invention without prejudice, and added new claims 30-46 to more particularly point out and distinctly claim the subject matter which applicants regard as their invention. Support for new claims 30-46 is found in the application as originally filed, for example, in Claims 2-13, and Example 8 (which begins on page 46, line 17). Applicants submit that the amendments canceling Claims 1-24 are being made solely to advance the prosecution of the instant application and are not in any way to be construed as an admission that the canceled material is unpatentable. Thus, Applicants reserve the right to pursue coverage of the canceled material by filing a continuation or a divisional application at an appropriate time in the future. After entry of the amendment, Claims 25-46 will remain pending and under consideration.

The Examiner has also required applicants to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner advises that in order for Applicants' reply to be complete it must include: (i) an election of a species or invention to be examined, and (2) identification of the claims encompassing the invention. Applicants hereby elect an oral dosage form wherein the low solubility therapeutic agent is topiramate, the structural polymer is polyethylene oxide of about 100,000 to 200,000

molecular weight, and the solubilizing surfactant is poloxamer 407, as the single disclosed species (*see, e.g.*, Example 8), upon which claims 25-46 are readable. This election is without traverse to the extent that it is understood that (a) the requirement will be withdrawn upon the finding of an allowable genus; and (b) any species withdrawn from consideration will be transferred to the elected subject matter unless it is found patentably distinct from the elected or allowed claims.

Early favorable action is respectfully requested.

Respectfully submitted,

/Mary A. Appollina/

Mary A. Appollina
Reg. No. 34,087
Attorney for Applicants

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-3742
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